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10/594,883	09/26/2007	Joachim Lohr	L7725.06128	5629
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Dickinson Wright PLLC				
James E. Ledbetter, Esq.				
International Square				
1875 Eye Street, N.W., Suite 1200				
Washington, DC 20006				
EXAMINER				
AHMED, ENAM				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/594,883

**Applicant(s)**

LOHR ET AL.

**Examiner**

ENAM AHMED

**Art Unit**

2112

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 30-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 9/29/06

Non – Final

The Examiner has considered the Preliminary Amendment filed on 9/29/06, and has examined claims 30-52 in this office action.

35 U.S.C. 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 30-52 are rejected under 35 U.S.C. 102(e) as being unpatentable over Kim et al. (U.S. Patent No. 7,200,789).

With respect to claim 30, the Kim et al. reference teaches transmitting a data packet from the mobile terminal to the base station via a first data channel (column 3, lines 11-14) and (see fig. 2, 201), receiving a feedback message from the base station at the mobile terminal, wherein the feedback message indicates whether the data packet has been successfully received by the

base station (column 3, lines 114-19) and (see fig. 2, 203), in case the feedback message indicates that the data packet has not been received successfully, transmitting the retransmission data packet from the mobile terminal to the base station via a second data channel (column 3, lines 21-23) and (see fig. 2, 205).

With respect to claim 31, the Kim et al. reference teaches wherein the transmission time interval of the first data channel is smaller than the transmission time interval of the second channel (column 3, lines 11-20).

With respect to claim 32, the Kim et al. reference teaches determining the transmission power for a retransmission of the data packet, in case the feedback message indicates that the data packet has not been received successfully (see fig. 3A, 303) and wherein the retransmission data packet is transmitted at a transmission power lower than the transmission power of the transmitted data packet (see fig. 3A, 305).

With respect to claim 33, the Kim et al. reference teaches subsequently reducing the transmission power for subsequent retransmission data packets that are sent for the unsuccessfully received data packet (column 7, lines 4-10).

With respect to claim 34, the Kim et al. reference teaches soft combining each retransmission data packet with the data packet at the base station (see fig. 2, 206).

With respect to claim 35, the Kim et al. reference teaches selecting in the mobile terminal the transmission power for the transmission of the retransmission data packet based on or considering at least one of a measured channel quality, power control commands received from the base station, and an additional diversity and processing gain obtained by using a longer transmission time interval on the second data channel (see fig. 4A, 404-407).

With respect to claim 36, the Kim et al. reference teaches wherein the retransmission data packet and the transmitted data packet comprise the same payload (column 4, lines 3-18).

With respect to claim 37, the Kim et al. reference teaches wherein the retransmission data packet is transmitted by the mobile terminal after a predetermined time span upon having received said feedback message (see fig. 3A, 305).

With respect to claim 38, the Kim et al. reference teaches in case the feedback message indicates that the data packet has not been received successfully, receiving a control message from the base station for the unsuccessfully received data packet, wherein the control message restricts the amount of information in a retransmission data packet to be sent for the data packet (see fig. 3A, 303), and wherein the retransmission data packet is transmitted from the mobile terminal to the base station comprising an amount of information indicated in said control message(see fig. 3A, 305).

With respect to claim 39, the Kim et al. reference teaches wherein control message indicates the maximum and minimum amount of information or the maximum amount of information sent in the retransmission data packet. The information sent in the retransmission data packet may comprise systematic and parity bits (column 8, lines 22-36).

With respect to claim 40, the Kim et al. reference teaches wherein the transmission of the indicated amount of information requires a reduced transmission power compared to the transmission power used for the data packet (column 7, lines 4-10).

With respect to claim 41, the Kim et al. reference teaches wherein the control message is transmitted in parallel or delayed to the feedback message from the base station to the mobile terminal (see fig. 4A, 406).

With respect to claim 42, the Kim et al. reference teaches wherein the feedback message is transmitted via an acknowledgment channel and the control message is transmitted via a scheduling related control channel (see fig. 3B).

With respect to claim 43, the Kim et al. reference teaches wherein the retransmission data packet is transmitted by the mobile terminal after a predetermined time span upon having received said feedback message (column 3, lines 34-44).

With respect to claim 44, the Kim et al. reference teaches wherein control message indicates not to transmit the retransmission data packet after a predetermined time span upon having received said feedback message (see fig. 5A, 503).

With respect to claim 45, the Kim et al. reference teaches wherein the control message is a TFC (Transmission Format Combination) control message (column 4, lines 61-67).

With respect to claim 46, the Kim et al. reference teaches soft combining the retransmission data packet and the transmitted data packet at the base station to obtain a combined data packet (see fig. 6, 206).

With respect to claim 47, the Kim et al. reference teaches decoding the combined data packet at the base station (see fig. 6, 605).

With respect to claim 48, the Kim et al. reference teaches wherein the transmitted control message indicates the retransmission data packet's amount of information necessary for successfully decoding of the combined data packet (column 14, lines 13-38).

With respect to claim 49, the Kim et al. reference teaches determining the amount of information for the retransmission data packet at the base station based on the reception quality of the data packet or the combined data packet (see fig. 4A, 405).

With respect to claim 50, the Kim et al. reference teaches wherein the data packet and the retransmission data packet are transmitted via dedicated transport channels (See Fig. 3A).

With respect to claim 51, the Kim et al. reference teaches a transmitting unit operable to transmit a data packet to the base station via a first data channel (column 3, lines 11-14) and (see fig. 2, 201), a receiving unit operable to receive a feedback message from the base station, wherein the feedback message indicates whether the data packet has been successfully received by the base station (column 3, lines 114-19) and (see fig. 2, 203), and wherein the transmitting unit is operable to transmit the retransmission data packet to the base station via a second data channel in case the feedback message indicates that the data packet has not been received successfully (column 3, lines 21-23) and (see fig. 2, 205).

With respect to claim 52, the Kim et al. reference teaches a receiving unit operable to receive a data packet from the mobile terminal via a first data channel (column 3, lines 13-16) and (see fig. 2, 202), a transmitting unit operable to transmit a feedback message to the mobile terminal, wherein the feedback message indicates whether the data packet has been successfully received by the base station (column 3, lines 16-19), and wherein the receiving unit is operable to receive a retransmission data packet from the mobile terminal via a second data channel in case the feedback message indicates that the data packet has not been received successfully (column 3, lines 21-23) and (see fig. 2, 205).



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Enam Ahmed whose telephone number is 571-270-1729. The examiner can normally be reached on Mon-Fri from 8:30 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman, can be reached on 571-272-3644.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EA

6/5/10

/MUJTABA K CHAUDRY/

Primary Examiner, Art Unit 2112